

Appln. No. 10/090,647
Amdt dated March 27, 2006
Reply to Office Action of Sep. 28, 2005

REMARKS/ARGUMENTS

Claims 1-2 remain in the application. The specification has been amended to complete the priority data. Claims 1 and 2 have been amended to more particularly define the present invention. Support for the first and at least one alternative communication mechanism can be found at least in paragraphs [0030], [0046], [0048], [0058], [0076], [0077], [0106], [0107], [0108], [0112], [0168], and [0174]. Support for the information source not being connected to the communication mechanisms can be found in at least paragraphs [0010], [0013], [0072], [0073], and [0163]. No new matter has been added.

Claim Rejections - 35 USC 102

Claims 1-2 were rejected as allegedly being anticipated by Mikurak. Applicant traverses this ground of rejection. To anticipate a claim, the reference must teach every element of the claim:

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

As will be explained herein, the presently claimed invention differs from the method and apparatus disclosed in Mikurak in a number of ways. Mikurak discloses a method "for life cycle network asset management in a network based supply chain. In accordance with an embodiment of the present invention, the supply chain network is monitored, and events from network assets are received, filtered, and correlated, whereby problems with network assets are further isolated. The filtered and isolated events problems are then translated into a standard object format for facilitating the determination of the life cycle of problem network assets, wherein the events are translated by a comprehensive library of all possible message types provided by the

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custom software interfaces. In accordance with an embodiment of the present invention, the network assets include both packet-switched and circuit-switched network assets, and the events are received by custom software interfaces which communicate directly with the network assets." (See the Abstract). As such, Mikurak, *as a whole*, discloses the monitoring of a network, receiving, filtering, and correlating events from network assets to isolate event problems, translating the isolated event problems into a standard object format for managing the lifecycle problems of network assets. Mikurak clearly monitors network assets *over the network itself* and fails to teach or fairly suggest any redundant communication of an exception to a messaging controller.

With respect to claim 1, Mikurak fails to teach or fairly suggest the presently claimed "communicating said at least one exception to at least one messaging controller over a first communication mechanism and, if not acknowledged, communicating said at least one exception to at least one messaging controller over at least one alternative communication mechanism." Likewise, since a primary purpose of Mikurak is to monitor a network using the same network, Mikurak clearly fails to teach or fairly suggest the presently claimed limitation of "said information source is not connected to the first communication mechanism or the at least one alternative communication mechanism," and, rather, implicitly *teaches against this arrangement*.

Likewise, with respect to claim 2, Mikurak fails to teach or fairly suggest the presently claimed "means to communicate said exception to said messaging controller over the first communication mechanism, and if not acknowledged, over the at least one alternate communication mechanism." And again, since a primary purpose of Mikurak is to monitor a network using the same network, Mikurak clearly fails to teach or fairly suggest the presently claimed "...information source not connected to the first communication mechanism or the at least one alternate communication mechanism," and, again, *teaches against this arrangement*.


Furthermore, none of the other cited prior art cures these deficiencies in Mikurak.

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Conclusion

For the reasons cited above, Applicant submits that claims 1-2 are in condition for allowance and requests reconsideration of the application. If there remain any issues that may be disposed of via a telephonic interview, the Examiner is kindly invited to contact the undersigned at the local exchange given below.

Respectfully submitted,



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